

1 Sheila S. Trexler, SBN 123871  
2 Tamara Glaser, SBN 200502  
3 NEIL, DYMOTT, FRANK,  
4 MCFALL & TREXLER  
5 A Professional Law Corporation  
1010 Second Avenue, Suite 2500  
San Diego, CA 92101-4959  
P 619.238.1712  
F 619.238.1562

6 Attorneys for Defendant  
MORTEZA MIRKARIMI, M.D.

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA**

CARMEN POWELL, ) Case No.: 07 CV 1836 JAH (JMA)  
Plaintiff, )  
v. )  
CITY OF CHULA VISTA; CHULA VISTA )  
POLICE DEPARTMENT; DET. RUTH )  
HINZMAN; AGT. ANDERSON; AGT. )  
OYOS; SGT. CERVANTES; AND PERSON )  
ENTITIES UNKNOWN; COUNTY OF SAN )  
DIEGO AND SAN DIEGO COUNTY )  
PROTECTIVE SERVICES WORKERS )  
JULIE SMITH, NADIA NAJORS, MEGAN )  
PETFINGER, REBECCA SLADE AND )  
PERSONS AND ENTITIES UNKNOWN; )  
CHILDREN'S HOSPITAL; DIANA CHASE; )  
NURSE DEBRA DAVIES, LCSW, )  
Defendants. )  
NOTICE OF DEFENDANT MORTEZA  
MIRKARIMI, M.D.'S MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT  
Date: March 3, 2008  
Time: 2:30 p.m.  
Judge: Honorable John A. Houston  
Room: Courtroom 11

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on March 3, 2008 at 2:30 p.m., or as soon thereafter as the matter may be heard, Defendant MORTEZA MIRKARIMI, M.D. by and through his attorneys of record, will move this court to Dismiss Plaintiff's Complaint For Failure to State a Claim upon which relief may be granted.

1

1 Plaintiff's complaint fails to make a claim which would subject the moving party to  
2 liability and it should be dismissed under FRCP 12(b)(6) for failure to state a claim upon which  
3 relief can be granted.

4 **MOTION TO DISMISS**

5 Defendant MORTEZA MIRKARIMI, M.D. requests a dismissal of the Complaint, in  
6 that the third count for Conspiracy Against Rights, Title 18 U.S.C. section 241, the only count  
7 pled against him, fails to state a claim upon which relief can be granted. 18 U.S.C. section 241  
8 does not provide for a private cause of action, and Plaintiff fails to state facts sufficient to  
9 establish any cause of action. (18 U.S.C. section 241; Federal Rule of Civil Procedure section  
10 12(b)(6).)

11 Said Motion will be based upon this Notice, the accompanying Memorandum of Points  
12 and Authorities in support of this Motion, and any other matter subject to judicial notice.

13  
14 Dated: January 24, 2008

NEIL, DYMOTT, FRANK,  
MCFALL & TREXLER  
A Professional Law Corporation

15  
16  
17 By: s/ Tamara L. Glaser  
18 Sheila S. Trexler  
19 Tamara L. Glaser  
20 Attorneys for Defendant  
21 MORTEZA MIRKARIMI, M.D.  
22  
23  
24  
25  
26  
27  
28